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GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DEPARTMENT OF LABOR & ECONOMIC GROWTH
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BILL ANALYSIS

BILL NUMBER: House Bill 4904 (H-1) Draft 1
TOPIC: Provides for general amendments to coordinated coverage for PIP
SPONSOR: Representative Dave Hildenbrand
CO-SPONSORS: Representatives Joe Hune, Edward Gaffney, John Stahl, Fulton Sheen, Jim Marleau, Leslie Mortimer, Judy Emmons, David Robertson, Barb VanderVeen
COMMITTEE: House Committee on Insurance
Analysis Done: June 22, 2005

POSITION

The Office of Financial and Insurance Services (OFIS) opposes this legislation.

PROBLEM/BACKGROUND

A Michigan no-fault policy contains three mandatory coverages: personal injury protection (PIP), property protection (PPI) and residual bodily injury and property damage liability insurance (BI/PD). The PIP coverage provides unlimited medical, hospital and rehabilitation for all reasonable and necessary expenses related to an accident. In a serious accident this can result in hundreds of thousands of dollars of expenses, since it can include home and auto modification expenses (to accommodate a wheelchair, for instance), wage loss benefits for up to three years, vocational classes (should the injuries require the person to be trained for a new job), and \$20 per day for any services needed to hire someone to provide you with services such as cooking, yard work, child care or house work. These same benefits would also be available to any other person driving or riding in the car, if he or she did not have his or her own insurance.

Because medical benefits for auto-related injuries in Michigan are unlimited, the cost of coverage for catastrophic auto accident injuries is reflected in the PIP portion of the policy. Policyholders may coordinate their PIP coverage with other health or disability coverage, which results in a small reduction in the PIP premium. In this instance, the health insurer would pay for all claims related to an auto accident, up to the limits of the health insurance policy, and the auto insurer would pay any outstanding amounts.

DESCRIPTION OF BILL

The proposed legislation would amend Section 3109a of the Insurance Code of 1956, MCL 500.3109a, to restrict an insured from receiving duplicate benefits for the same expenses or incurred losses.

SUMMARY OF ARGUMENTS

Pro

The proposed legislation would restrict an insured from receiving duplicate benefits for the same expenses or incurred losses. Currently, policyholders may purchase separate auto, health and disability policies and in some cases may seek reimbursement from multiple insurers for the same injuries. The purpose of insurance is to ensure that the individual is indemnified, or made whole, for his or her loss. However, it could be argued that seeking and obtaining duplicate benefits for the same loss violates this concept in that the policyholder is overcompensated for their loss and may in fact profit from such a situation.

Con

Michigan consumers purchase insurance by entering into a contract with an insurer. Per this contract, the consumer agrees to pay a specified premium to the insurer in exchange for benefits to be provided if specific conditions are met, as outlined in the policy language. Although consumers are required by statute to purchase a no-fault policy if they operate a motor vehicle on Michigan roads, they may also choose to purchase separate policies for health and/or disability coverage and there may be some overlap in coverage among these multiple policies. In this instance, the consumer may choose whether or not to coordinate their personal injury protection (PIP) coverage under their auto insurance policy with the other health or disability coverage in exchange for a reduction in his or her auto insurance premium. A coordinated auto insurance policy means that the health insurer would pay for all claims related to an auto accident, up to the limits of the health insurance policy, and the auto insurer would then pay any outstanding amounts. For example, the health policy may have a yearly limit on certain benefits, such as physical therapy, or the disability policy may only pay work loss up to a certain length of time. Currently in these instances, the auto insurer is responsible for paying the balance of the physical therapy as long as it is reasonable and necessary for the policyholder's recovery, or the additional work loss if it is warranted, up to the three-year limit under the no-fault policy. However, the proposed legislation would in effect change this current coordination agreement if the auto insurer interprets this situation as the policyholder seeking duplicate benefits, even though there are differences in coverage limits on the two policies.

It's important to note that each of these policies (auto, health and disability) requires the policyholder to pay a separate premium and entitles them to receive separate benefits

as outlined in the contract, or policy language. If a consumer chooses to purchase a policy and pay premium, they should be entitled to fully collect on that policy for the benefits purchased, regardless of whether the benefits are also covered on a secondary policy. The proposed legislation would restrict a policyholder from receiving the full benefits for which they have paid a premium. If an insurer chooses to sell a policy to a consumer, they should be required to provide the contracted benefits, regardless of whether there is additional coverage on another policy. The consumer should not be held responsible for determining whether there is an overlap of benefits and whether there is a coordination issue. Instead, the insurer should hold this responsibility and should be prevented from selling a policy to a consumer if they believe there is a reason why the policy would exclude duplicate coverage. In other words, if the consumer is eligible to purchase multiple policies they should in turn be eligible to collect benefits under each policy. The proposed legislation appears to allow an auto insurer to overstep its contractual power by attempting to restrict a consumer's right to recovery from each of his or her insurers, based on that particular insurer's contractual obligation to the policyholder.

FISCAL/ECONOMIC IMPACT

OFIS has identified the following revenue or budgetary implications in the bill as follows:

(a) To the Office of Financial and Insurance Services:

Budgetary:

Revenue:

Comments: The OFIS may incur additional expense to ensure that insurers and consumers are aware of the amendments contained in this legislation. Additional expense may also be incurred by OFIS to monitor the insurance industry to ensure compliance with the new requirements.

(b) To the Department of Labor and Economic Growth: None known.

Budgetary:

Revenue:

Comments:

(c) To the State of Michigan: None known.

Budgetary:

Revenue:

Comments:

(d) To Local Governments within this State: None known.

Comments:

OTHER STATE DEPARTMENTS

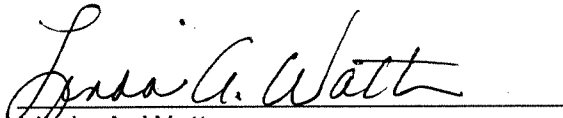
None known.

ANY OTHER PERTINENT INFORMATION

This proposed legislation is similar to legislation introduced in previous and current legislative sessions.

ADMINISTRATIVE RULES IMPACT

The proposed legislation would amend the Michigan Insurance Code. The OFIS does have general rulemaking authority under the Insurance Code of 1956, 1956 PA 218.

A handwritten signature in cursive script, reading "Linda A. Watters", is written over a horizontal line.

Linda A. Watters
Commissioner

6-22-05

Date